

**REMARKS**

Claims 1 through 12 are pending in the application.

Applicants acknowledge with gratitude the Examiner's continued indication that the claimed invention is patentable in light of the art of record.

Claim 1 has been amended to reflect advantageous processes in which R may be selected from phenyl or C<sub>1</sub> – C<sub>4</sub>-alkyl-phenyl. Support for this amendment can be found in the Application-as-filed, for example on Page 6, lines 1 through 20.

Claim 2 has been amended to reflect advantageous processes in which R' may be phenyl. Support for this amendment can be found in the Application-as-filed, for example on Page 3, lines 11 through 13.

Claim 10 has been amended to reflect advantageous processes in which the cyclic phosphonic anhydride is independently substituted with an ethyl, propyl or butyl radical. Support for this amendment can be found in the Application-as-filed.

Claim 12 has been amended to reflect advantageous processes in which R may be selected from phenyl or p-methyl-phenyl. Support for this amendment can be found in the Application-as-filed, for example on Page 6, lines 1 through 20.

Applicants respectfully submit that this response does not raise new issues, but merely places the above-referenced application either in condition for allowance, or alternatively, in better form for appeal. Reexamination and reconsideration of this application, withdrawal of all rejections, and formal notification of the allowability of the pending claims are earnestly solicited in light of the remarks which follow.

Rejection Under 35 USC § 112

Claim 10 stands rejected over the recitation "and / or." Claim 10 has been amended to remove the term "and /," in conformance with the remarks provided in Applicants' Amendment of March 27, 2008. Applicants' Representative sincerely regrets any inconvenience the foregoing oversight may have caused.

Accordingly, Applicants respectfully request withdrawal of the foregoing rejection.

Claims 1 through 12 stand rejected as failing to comply with the written description requirement for the recitation "aryl or heteroaryl," due to a lack of definition for the terms "aryl" or "heteroaryl."

Applicants respectfully reiterate that the Application-as-filed does, in fact, convey with reasonable clarity to one skilled in the art that Applicants were clearly in possession of the claimed processes as of the filing date sought. Applicants further respectfully submit that Claim 12 as-submitted did not include the recitation "aryl or heteroaryl." Applicants additionally respectfully submit that the critical and essential features of the claimed invention are adequately described within the claims, in contrast to the urgings of the outstanding Office Action on Page 6, first paragraph. Applicants also respectfully submit that the actual reduction to practice, e.g. Working Examples 1 and 2, provide a sufficient description of a representative number of species, and that, alternatively, the Application-as-filed disclosed sufficient relevant, identifying characteristics of the claimed compounds coupled with a known correlation between function and structure sufficient to show that Applicants' were in possession of the claimed genus.

Without further addressing the merits of the rejection and solely to advance prosecution of the case, Claim 1 has been amended to (i) remove the term "heteroaryl" and (ii) to recite the phrase "phenyl or C<sub>1</sub> – C<sub>4</sub>-alkyl-phenyl" in lieu of the term "aryl." Claim 2 has been amended to (i) remove the term "heteroaryl" and (ii) to recite the phrase "phenyl" in lieu of the term "aryl." Claim 12 has been amended to remove the term "derivative thereof" and recite the term "p-methyl-phenyl" in lieu thereof. As noted above, support can be found in the Application-as-filed for the foregoing amendments. Applicants further respectfully submit that the subject matter of the claim need not be described using the exact same terms or *in haec verba*. MPEP 2163.02

According, Applicants respectfully request withdrawal of the foregoing rejection.

### CONCLUSION

It is respectfully submitted that Applicants have made a significant and important contribution to the art, which is neither disclosed nor suggested in the art. It is believed that all of pending Claims 1 through 12 are now in condition for immediate allowance. It is requested that the Examiner telephone the undersigned if any questions remain to expedite examination of this application.

It is not believed that extensions of time or fees are required, beyond those which may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time and/or fees are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required is hereby authorized to be charged to Deposit Account No. 50-2193.

Respectfully submitted,



Cathy R. Moore  
Reg. No. 45,764

Application No.: 10/586,768

Filing Date: July 20, 2006

Page: 8

ProPat, L.L.C.

425-C South Sharon Amity Road

Charlotte, NC 28211-2841

Telephone: (704) 365-4881

Fax: (704) 365-4851

Customer No. 38263

**CERTIFICATE OF ELECTRONIC TRANSMISSION**

I hereby certify that this correspondence is being electronically transmitted to the United States Patent and Trademark Office PAIR website on September 5, 2008.



Claire Wygand